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HANDLING INDICATOR

TO : American Embassy, PORT-AU-PRINCE

FROM : Department of State

DATE: MAY 10 6 58 PM '63

SUBJECT : Navassa Island

REF : Embassy's A-411 of April 18, 1963

The Island of Navassa became a possession of the United States as a result of action taken under the Act of August 18, 1856, "to authorize Protection to be given to citizens of the United States who may discover deposits of Guano", 11 Stat. 119, and other acts on the part of the United States and its citizens. Citizens of the United States took peaceable possession of this deserted Island in 1857, on behalf of the United States, and thereafter satisfied the Government of the United States that the Island was not within the lawful jurisdiction of any other government nor occupied by the citizens of any other country.

On December 8, 1859, the Department of State proclaimed recognition of the privileges and advantages to which the assignee of the original discoverer of the Island was entitled pursuant to the Act of 1856. Thereafter, for approximately forty years, the Island was continuously occupied by United States citizens exploiting its guano resources, making capital investments and enjoying the protection of the United States. During part of this period between 1859 and 1898, an American Governor was present to administer the Island. Prosecution for crimes committed on the Island was undertaken in the courts of the United States. Thus the United States has exercised unequivocal acts of absolute sovereignty and ownership of the Island.

As regards the claim of the Government of Haiti, that Government has never shown that the Island had been occupied by Haitians or that the Government of Haiti ever performed any act of jurisdiction regarding the Island. The occasional visits to the Island by Haitian fishermen, to which the Government of Haiti made reference in a note to the Secretary of State on March 19, 1873, could not and did not establish

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sovereign right and title to the Island in their Government and the Secretary of State so advised the Haitian Minister in his reply. Indeed, absence of potable water or any living facilities on the Island and the fact that entry to the Island is accomplished only by scaling a forty foot cliff, approachable only with favorable sea conditions, makes it doubtful that there was any meaningful use of the Island by fishermen or others prior to the establishment there of American guano developers in 1859.

Consequently, Embassy comments might be along the following line:

"The Island of Navassa has been peaceably occupied and developed by citizens of the United States and subject to the jurisdiction of the United States at least since 1859. Prior to that time, the Island had never been occupied, had never been inhabited and had never in fact been subject to the jurisdiction of any government.

"Haitian claims were raised only after United States citizens had settled on the deserted Island and begun development of its guano resources ~~after its discovery by United States citizens in 1857~~. These claims were most carefully recited in notes which the Haitian Minister to the United States, Mr. Preston, addressed to the Secretary of State, Mr. Fish, on July 19, 1872 and March 19, 1873. The Secretary of State replied to each of these notes with a detailed analysis of pertinent history and international law. These replies by the Secretary of State, on behalf of the United States Government, made it clear that the claims which had been made by Haiti were without foundation. Specific Haitian references to the works of cartographers and historians were demonstrated to be either insufficient to support the Haitian claim or sufficient to support the contention of the United States that no government exercised jurisdiction over the Island prior to 1859.

"United States sovereignty has been exercised without interruption to this date and clearly comports with standards of international law with respect to sovereignty."

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